State of California **California Tax Credit Allocation Committee**

M E M O R A N D U M

June 7, 2004

To: Interested Parties

From: Jeanne Peterson
Executive Director

Re: **Proposed Changes to Regulations**

Staff recommends several changes to the Regulations adopted by the Committee on February 18, 2004. These are relatively minor changes that are meant either to clarify something that might have appeared ambiguous, to rectify a typographical error, and in one case, to add a new requirement after developments have been built. In the order they appear in the Regulations, they are as follows:

1. **Section 10315(b) Page 6**

"All Projects located in rural areas must compete in the rural set-aside and will not be eligible to complete in other set-asides or in the geographic areas unless they qualify and choose to compete in the At Risk **or Small Development** set-aside, in which case they will no longer be considered rural and will be evaluated as non-rural projects for purposes of these regulations."

We have permitted At Risk projects located in rural areas to choose whether to compete in the rural set-aside or the At Risk set-aside. In reviewing the use of the Small Development set-aside, which has sometimes been undersubscribed, it made sense to suggest that these applicants should also be able to choose whether to compete in the rural or small development set-aside.

2. **Section 10315(1) Page 6**

"RHS program apportionment. In each reservation cycle, fourteen percent (14%) of the rural set-aside shall be available first to projects financed by the RHS Section 514, 515, or 538 Program that have received an obligation of RHS funds (as that term is used by the RHS) of at least $1,000,000 **and where that obligation is equal to or greater than ten percent (10%) of the project's total cost,** or **for projects that have** received an obligation of RHS Section 521 Rental Assistance for at least 50% of the units ~~plus~~ **and** an RHS loan obligation for at least-10% of the project's total development cost……..To the

extent that there are funds remaining in this RHS apportionment, the next priority shall be those projects with at least $1,000,000 in funds already set-aside (as that term is used by the RHS) from either the RHS 514, 515, or 538 Programs **and where that set-aside is equal to or greater than ten percent (10%) of the project's total cost,** or with Section 521 Rental Assistance already set-aside for at least 50% of the units ~~plus~~ **and** RHS financing already set aside for at least 10% of the project's total development cost."

This is merely a clarification of the original intent of the regulation.

3. **Section 10322(i)(2) Page 14**

"Placed in service application. Applicants proposing a placed-in-service application shall provide, in addition to the aforementioned submission requirements of a Final Reservation Application:….

(B) A third party audited **Owner's cost** certification, on a Committee provided form, of actual total project costs incurred, **and, for all projects receiving an allocation of credit after December 31, 2003, a third party Contractor's cost certification, on a Committee provided form.**

It was staff's intention to include this language in the February 18, 2004 regulation; it was left out by oversight. Virtually all other state credit agencies require contractors' cost certifications; this is the mechanism for gauging the exact construction costs as opposed to cost estimates submitted prior to construction.

4. **Section 10325(c)(2) Page 18**

"Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. **In order to be eligible for maximum points in either subsection (A) or (B), a completed previous participation form must be present in the application…."**

This is a clarification to assure that all applicants understand the requirements for points in the experience category.

5. **Section 10325(c)(12)**

Beginning with the phrase approximately half way through the paragraph, "third, the application with the lowest ratio of requested unadjusted eligible basis to total project costs, excluding developer fee, **total** land **cost** and general partner equity and/or loans from the general partner or equity provider, unless the loan is the permanent loan for the development. **For projects that include market rate units, the third tie-breaker ratio will be established by multiplying the applicable fraction of low-income units to total units, excluding any managers' units.** This ratio must not have increased when the project is placed-in-service or negative points will be awarded, and the credit award may be reduced."

This addition addresses how the third tie-breaker will be applied in the case of a development that proposes to be less than 100% affordable, a situation that was not addressed in the current iteration of the regulation.

6. **Section 10325(d)(1) Pages 25 & 26**

Middle of the paragraph, beginning with "….To the extent that more credit is reserved to the last project in a set-aside than is available in that set-aside during the second funding round, the overage will be taken from the **one and one-half percent (1.5%)** ~~three percent~~ holdback to the extent there are sufficient funds in the holdback….".

This change corrects a typographical oversight. The holdback amount (as is reflected elsewhere in the regulations) is now 1.5%, not the previous 3%.